

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**ANDY BUXTON,**

Plaintiff,

v.

**JOHN WETZEL, M. ADAMS,  
KAREN FEATHER, ADAM  
MAGOON AND JANE DOE,**

Defendants.

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**Electronic Filing**

**MEMORANDUM ORDER**

Plaintiff, Andy Buxton (“Buxton” or “Plaintiff”) commenced this civil action on August 9, 2021, while he was still an inmate at SCI Mercer, against Defendants, John Wetzel, (“Wetzel”) the former Secretary of the Department of Corrections (“DOC”); Melinda Adams (“Adams”) SCI Mercer’s Superintendent; Karen Feather (“Feather”); and Jane Doe (collectively “Defendants”). Plaintiff alleges that Defendants, as a group, violated his constitutional rights by exposing him to Covid from August 2020 through January 2021 because they “failed to comply and enforce Covid, CDC, DOC, SCI Mercer, and enhance[d] quarantine precautions” on his housing unit. The case was referred to Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court for Magistrate Judges. The case was reassigned to Magistrate Judge Patricia L. Dodge on December 20, 2021.

On August 15, 2023, Magistrate Judge Dodge filed a Report and Recommendation (ECF No. 93) in which it was recommended that the Court dismiss the unidentified and unserved Jane Doe defendant without prejudice because plaintiff failed to identify and serve her with the Amended Complaint in accordance with the Fourth Case Management Order and Rule 4(m) of the Federal rules of Civil procedure.

Pursuant to the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Civil Rules, the parties were permitted to file objections to the Report and Recommendation on or before August 29, 2023. Neither party filed objections.

After a comprehensive review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 20<sup>th</sup> day of October, 2023,

IT IS ORDERED that all claims against defendant Jane Doe be, and the same hereby are, dismissed without prejudice. The Report and Recommendation (ECF No. 93) dated August 15, 2023, is adopted as the Opinion of the Court.

s/David Stewart Cercone  
David Stewart Cercone  
Senior United States District Judge

cc: Andy Buxton, *Pro Se*  
426 George Street, Apt. 507  
Braddock, PA 15104-1606

*(Via First Class Mail)*

Yana L. Warshafsky, Esquire  
Magistrate Judge Patricia L. Dodge

*(Via CM/ECF Electronic Mail)*